

FILED
UNITED STATES DISTRICT COURT
IN CLERKS OFFICE
DISTRICT OF MASSACHUSETTS
C.A. #04-10550-WGY
1705 JAN 31 P 1:59

JACQUELINE LASSITER

v.

KIMBER ANDERSON ET AL

U.S. DISTRICT COURT
DISTRICT OF MASS.
OPPOSITION TO MOTION TO DISMISS
TITLE VII CLAIMS AND REQUEST FOR
WAIVER OF REQUIREMENT OF
RECEIPT OF RIGHT-TO-SUE LETTER

The plaintiff hereby opposes the defendants' Motion To Dismiss Title VII Claims on account of the non-receipt of a Right-To-Sue Letter from the EEOC and requests that this Court waive such requirement in her behalf. Pietras v. Board of Fire Comm'rs, 180 F.3d 468 (2d.Cir, 1999).

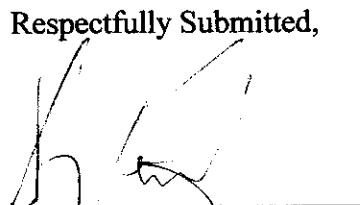
The defendants, having omitted to raise the said issue either in their Answer by way of an Affirmative Defense; in their 12(b)(6) Motion and in their Rule 56 Motion For Partial Summary Judgment, should be deemed to have waived this defense. Glater v. Eli Lilly & Co., 712 F.2d 735, 738 (1st.Cir., 1983).

The procedural history of this litigation at MCAD and the pre-trial proceedings herein, present sufficient factors to justify equitable modification of the requirement of a Right-To-Sue Letter.

In the alternative, plaintiff prays that the Court grant her leave to request the Right-To-Sue Letter, **pendente lite**, from the EEOC.

Plaintiff relies on the Affidavit (of Counsel) annexed and Exhibit 9, incorporated by reference.

Respectfully Submitted,


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